

**CITY OF BURIEN
HEARING EXAMINER
FINDINGS, CONCLUSIONS AND RECOMMENDATION**

APPLICANT: Hans Korve, DMP, Inc. for Ken Muscatel

CASE NO.: PLA 06-2159

LOCATION: 1045 South 136th Street (see Exhibit A, Attachment 1)

APPLICATION: A request to subdivide a 1.77 acre residential parcel into seven (7) single-family residential lots in an RS-7,200 Single-Family Residential zone (see Exhibit A).

REVIEW PROCESS: Hearing Examiner conducts an open record hearing and makes a recommendation to the City Council, who then makes the final decision.

SUMMARY OF RECOMMENDATION AND DECISION:

Staff Recommendation: Approve with conditions

Hearing Examiner Recommendation: Approve with conditions

PUBLIC HEARING:

After reviewing the official file, which included the Staff Recommendation, and after visiting the site, the Hearing Examiner conducted a public hearing on the application. The hearing on the Muscatel application was opened at 10:00 a.m., April 10, 2007, in the Educational Resource & Administrative Center, Burien, Washington, and closed at 10:55 a.m. Participants at the public hearing and the exhibits offered and entered are listed in this report. A verbatim recording of the hearing is available in the Community Development Department.

Hearing Comments:

The following is a summary of the comments offered at the public hearing.

From the City

Chip Davis, Planner: Provided a summation of the specifics of the application (see Exhibit A). Mr. Davis noted that a possible reduction of the number of lots could occur as the result of access and/or drainage issues or constraints on the site. Mr. Davis provided detail on the City's stormwater requirements and gave a description of existing drainage conditions of the surrounding area. In response to Mr. Ramboll's comments (see below) he noted that the problems occurring on an adjacent subdivision are being investigated and that

the City's updated stormwater requirements are designed to ensure no impact to adjacent properties. Mr. Davis also explained that while the project did not trigger the City's threshold for SEPA that the existence of a low water table may trigger the requirement at the Department of Ecology.

From the Applicant

Hans Krove: Stated they were in concurrence with the staff's recommendations and analysis. Mr. Krove clarified that all on-site stormwater would be intercepted and directed to the City's facilities. He also requested that a SEPA review not be made part of the conditions of the City's approval since it was unclear whether it would be an Ecology requirement.

From the Community

Robert Ramboll, neighbor: Provided a detailed summation of the local drainage conditions, noting existing problems on his lot and others in the area (see Exhibits B and C). He is concerned that detention ponds and the system in general do not work, and that this project will have a negative impact on his property.

Bob Akimoto, neighbor: Mr. Akimoto's concerns focused on the existing road conditions and background traffic in the immediate neighborhood. Mr. Akimoto noted the aggressiveness of drivers and would like to see lower speed limits, that 10th Avenue narrows significantly and should have signage, and thought there should be a second exit out of the proposed subdivision. Mr. Akimoto requested a written response from Public Works and the Police Departments relative to the conditions of 10th Avenue. (Note: Mr. Davis indicated he would follow-up with Mr. Akimoto's request.)

FINDINGS OF FACT AND CONCLUSION

1. The Facts presented in the Site Description on pages 5 and 6 in Exhibit A, Staff Recommendation, March 21, 2007 accurately reflects the site circumstances, zoning requirements and land use, and are hereby adopted by reference.
2. The staff responses to private and public agency comments on pages 4 through 8 in Exhibit A, Staff Recommendation, March 21, 2007, along with staff's responses to public comments and questions at the hearing, appear to address the concerns raised in submitted letters and during hearing testimony.
3. The Facts and Conclusion regarding compliance with SEPA on pages 8 and 9 in Exhibit A, Staff Recommendation, March 21, 2007, are accurate and are hereby adopted by reference.
4. The Facts and Conclusions regarding compliance with Subdivision Approval Criteria on pages 9 and 10 in Exhibit A, Staff Recommendation, March 21, 2007, are accurate and are hereby adopted by reference.

5. The Facts and Conclusions regarding compliance with Development Regulations on pages 10 through 18 in Exhibit A, Staff Recommendation, March 21, 2007; specifically:
- General Compliance page 10,
 - Lot Size and Layout pages 10 and 11,
 - Street Improvements, Access and Parking pages 11 through 14,
 - Utilities pages 14 and 15,
 - Surface Water Management pages 14 through 17,
 - Fe-In-Lieu of Recreation Space page 17,
 - Tree Retention and Landscaping page 18;

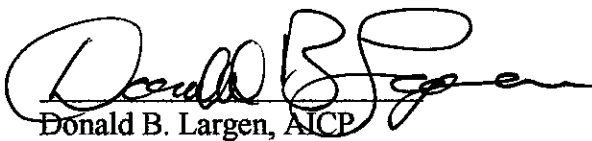
are accurate and are hereby adopted by reference.

6. The Facts and Conclusions regarding the Preliminary Plat Map on pages 18 and 19 in Exhibit A, Staff Recommendation, March 21, 2007, are accurate and are hereby adopted by reference.
7. The Facts and Conclusion regarding compliance with the Comprehensive Plan on page 19 in Exhibit A, Staff Recommendation, March 21, 2007, are accurate and are hereby adopted by reference.

RECOMMENDATION

Based upon the foregoing findings and conclusions, it is recommended that the request for the 7 lot subdivision be approved, subject to the conditions found on pages 2 through 5 of Exhibit A, Staff Recommendation, March 21, 2007.

Entered this 20th day of April, 2007.


Donald B. Lergen, AICP
Hearing Examiner

CITY COUNCIL REVIEW AND DECISION:

The City Council will take final action on this application in accordance with the provisions of BMC 19.65.075.

JUDICIAL REVIEW:

The following is a summary of the deadlines and procedures for judicial review.

BMC 19.65.060 allows the city's final decision to be appealed by filing a land use petition in King County Superior Court. Such petition must be filed within 21 days after issuance of the decision, as provided in RCW 36.70C. Requirements for fully exhausting City administrative appeal opportunities must first be fulfilled.

EXHIBITS:

The following exhibits were offered and entered into the record:

- A. Staff Recommendation to the Hearing Examiner with attachments dated March 21, 2007.
- B. Letter from Robert E. Ramboll dated April 10, 2007.
- C. Eight Attachments submitted with Exhibit B above, consisting of a letter, a chart and six photos.

PARTIES OF RECORD:

Ken Muscatel
2445 72nd Avenue SE
Mercer Island, WA 98040

Hans Korve
DMP, Inc.
726 Auburn Way North
Auburn, WA 98002

Robert E. Ramboll
13724 10th Avenue South
Burien, WA 98168-3643

Community Development Department

Bob Akimoto
926 South 137th Street
Burien, WA 98168-4174